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IAB CASE # FO 2190529

SUPERVISOR'S USE OF FORCE REPORT
INVESTIGATIVE SUMMARY

TRANSCRIBED INTERVIEW

Mark Moffett, #[redacted], Sergeant

EXHIBITS:

MISCELLANEOUS DOCUMENTS

Los Angeles County Sheriff's Department
Supervisor's Report on Use of Force

Incident Information

URN:	407-03264-2851-051	Date:	02-24-07	Time:	0948
Location:	Atlantic Avenue, between Alondra Boulevard and the 710 Freeway overpass, Compton				
City or Station:	Compton				
Bureau/Station/Facility:	Compton Station	Admin. Investigation:	YES ☐ NO ☐		

Employee Witnesses

Emp. #	Last Name	First Name	Middle Name
[redacted]	Kocisko	Todd	
[redacted]	Dearborn	Karen	

Non-Employee Witnesses

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted],	[redacted]		[redacted]	[redacted]

Street Address	City	Zip Code	Work Ph.	Home Ph.
[redacted]	[redacted]	[redacted]	cell [redacted]	[redacted]

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]		[redacted]	[redacted]

Street Address	City	Zip Code	Work Ph.	Home Ph.
[redacted]	[redacted]	[redacted]	[redacted]	cell: [redacted]

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Work Ph.	Home Ph.

On Duty Supervisor

Emp. #	Last Name	First Name	Middle Name	Rank	Present	Witness to Incident
[redacted]	Miller	Ralph	E.	Sgt.	YES ☐ NO ☒	YES ☐ NO ☒
					YES ☐ NO ☐	YES ☐ NO ☐

Watch Sergeant

Emp. #	Last Name	First Name	Middle Name
[redacted]	Jaime	Eric	R.

Watch Commander

Emp. #	Last Name	First Name	Middle Name
[redacted]	Miller	Ralph	E.

Watch Commander's Signature: ____________________ Emp #: __________

Copy Provided to Employee by: ____________________ Emp #: __________

Supervisor Completing Form: Sergeant Diane Holloway (Print) Emp #: [redacted]

Unit Commanders Signature: ____________________ Emp #: __________ Date Signed: __________

PSTD Use Only

FO# 2190529

Original: Unit Commander
Copy: P.S.T.D.Headquarters, Employee

See Reverse

SH-R-438 Rev. 10/98

Supervisor's Report on Use of Force

URN: 407-03264-2851-051

Method

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

FORCE APPLIED ***(Only One Code Per Block)***

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	PP	LC,AB	HD, HE
E#1	S#1	FL	UN,LC	HE

See Front Side

Supervisor's Report on Use of Force
INVOLVED EMPLOYEE INFORMATION

URN: 407-03264-2851-051

Involved Employee

E1

Employee #	Last Name	First Name	Middle Name
[redacted]	Moffett	Mark	G

Sex:	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
☒ Male ☐ Female	W	Compton Station	280S

Shift:		Age:	Height:	Weight:
☐ EM ☒ Day ☐ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	[redacted]	510	180

Medical Exam/Treatment	If Admitted, Name of Hospital:	Coroner Case #	
☒	Not admitted, Long Beach Memorial		Directed Force ☐ Significant Force ☒

E_

Employee #	Last Name	First Name	Middle Name

Sex:	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
☐ Male ☐ Female			

Shift:		Age:	Height:	Weight:
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital:	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

E_

Employee #	Last Name	First Name	Middle Name

Sex:	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
☐ Male ☐ Female			

Shift:		Age:	Height:	Weight:
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital:	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

E_

Employee #	Last Name	First Name	Middle Name

Sex:	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
☐ Male ☐ Female			

Shift:		Age:	Height:	Weight:
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital:	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

E_

Employee #	Last Name	First Name	Middle Name

Sex:	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
☐ Male ☐ Female			

Shift:		Age:	Height:	Weight:
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital:	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

E_

Employee #	Last Name	First Name	Middle Name

Sex:	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
☐ Male ☐ Female			

Shift:		Age:	Height:	Weight:
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital:	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

See Other Side

Supervisor's Report on Use of Force
SUSPECT INFORMATION

URN: 407-03264-2851-051

Suspect Information

S1

Last Name	Najera,	First Name	Jose	Middle Name	
AKA Last Name	Majera	First Name	Robert	Middle Name	

Sex:	Race:	Street Address:	City:	State & Zip Code:
☒ Male ☐ Female	HE	[redacted]	[redacted]	[redacted]

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed?
		31	5'08"	09-04-75	165	☐

Booking #: 9422556 Primary Charge: 246 PC Secondary Charge: 245(C)PC Criminal History [redacted]

Hospital Admission? ☒ Rec'd Treatment At: Harbor/UCLA General Medical Center Coroner Case#: Mental History ☐

Under Influence: ☐ YES ☒ NO Substance: ____________

Photos of Suspect's Injuries ☒ YES ☐ NO

Suspect Interview

Date:	Time:	Audiotape: ☐	Videotape: ☐

Suspect Information

S_

Last Name		First Name		Middle Name	
AKA Last Name		First Name		Middle Name	

Sex:	Race:	Street Address:	City:	State & Zip Code:
☐ Male ☐ Female				

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed?
						☐

Booking #: Primary Charge: Secondary Charge: Criminal History ☐

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case#: Mental History ☐

Under Influence: ☐ YES ☐ NO Substance: ____________

Photos of Suspect's Injuries ☐ YES ☐ NO

Suspect Interview

Date:	Time:	Audiotape: ☐	Videotape: ☐

Suspect Information

S_

Last Name		First Name		Middle Name	
AKA Last Name		First Name		Middle Name	

Sex:	Race:	Street Address:	City:	State & Zip Code:
☐ Male ☐ Female				

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed?
						☐

Booking #: Primary Charge: Secondary Charge: Criminal History ☐

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case#: Mental History ☐

Under Influence: ☐ YES ☐ NO Substance: ____________

Photos of Suspect's Injuries ☐ YES ☐ NO

Suspect Interview

Date:	Time:	Audiotape: ☐	Videotape: ☐

See Other Side

INTERNAL AFFAIRS BUREAU
SIGNIFICANT USE OF FORCE
INVESTIGATIVE SUMMARY
IAB# FO 2190529

File #: 407-03264-2851-051

Date / Time: Saturday, February 24, 2007 / 0948 hours

Location: East sidewalk on Atlantic Avenue, north of 710 Freeway, Compton

Suspect: Jose Najera, MH/03-08-84 (aka: Majera)

Personnel: Sergeant Mark Moffett, #[redacted] - 280S Days

On February 24, 2007, the Internal Affairs Bureau (IAB) Force and Shooting Response Team went to the City of Compton regarding a significant use of force, wherein the involved suspect sustained a significant head injury and was hospitalized after he was struck in the head by a flashlight thrown by Sergeant Mark Moffett. The IAB team consisted of Sergeants Diana Holloway and Steve Flamm, and Acting Lieutenant Elier Morejon. Mr. [redacted] of the Office of Independent Review also responded to the scene. This review of the incident is based on the evidence at the scene, taped interviews of the suspect, witnesses and involved sergeant, and miscellaneous written documentation.

OVERVIEW

On February 24, 2007, Compton Station personnel, along with Sergeant Mark Moffett, were in the area of Atlantic Avenue and Alondra Boulevard, regarding followup (vicinity check) to an earlier call of shots fired, occurring approximately one hour before. At 0944 hours, a call of another shooting was dispatched and Sergeant Moffett, who was in the immediate area, responded to the shooting scene.

Sgt. Moffett made contact with a woman who had been shot in the leg by suspects driving in a dark blue van. He subsequently broadcasted the suspect's vehicle description and, seconds later, Air 7 (Deputies Karen Dearborn and Todd Kocisko) saw the vehicle on Atlantic Avenue and the 710 Freeway. Sergeant Moffett drove southbound on Atlantic Avenue towards the 710 Freeway, when Air 7, on the patch, indicated that numerous suspects had exited the vehicle and were running away from it. Three suspects ran southbound Atlantic Avenue, while one suspect (later identified as Jose Najera) ran northbound Atlantic Avenue on the east sidewalk.

Sergeant Moffett was directed by Air 7 towards Suspect Jose Najera, who continued northbound on Atlantic Avenue. Sergeant Moffett exited his vehicle and stepped onto the east sidewalk in an attempt to detain Najera. As Najera ran towards Sergeant Moffett, Moffett saw that Najera had retrieved a handgun from his waistband and tossed it onto the ground. Najera continued to run towards Sergeant Moffett and struck Moffett with his body, knocking Moffett backwards into a

nearby fence. Najera staggered and then continued running northbound on the sidewalk. Sergeant Moffett was dazed, but got up and took a few steps northbound towards Najera. As Najera continued to run away, Sergeant Moffet threw his flashlight at Najera. Sergeant Moffett's flashlight struck Najera in the back of the head, immediately knocking him to the ground. Sergeant Moffett handcuffed and detained Najera without further incident. Sergeant Moffett recovered the handgun, which is believed to be the weapon used against the victim of th[redacted] PC.

*****IAB Note: The distance between Sergeant Moffett and Najera at the time the flashlight was thrown was approximately fifteen to twenty feet.**

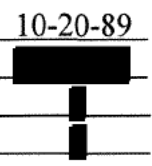
INVOLVED PERSONNEL:

MOFFETT, Mark G., [redacted]
Field Operations Region II
Compton Station - Patrol Sergeant

EMPLOYEE WORK HISTORY:

MOFFETT, Mark G.

Date of employment	10-20-89
Date assignment to Compton Stn	[redacted]
Prior shooting incident(s)	[redacted]
Prior founded force incidents	[redacted]



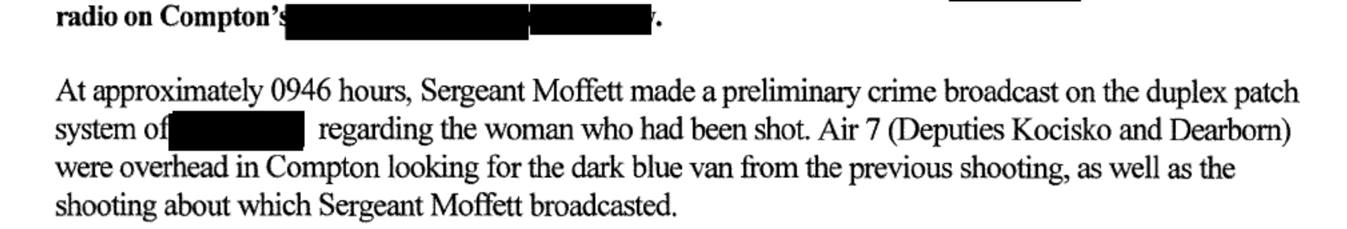
INVOLVED EMPLOYEE'S STATEMENTS

The narrative which follows is a synopsis of Sergeant Moffett's IAB Force interview. Additional information and precise wording may be obtained by reviewing the transcript and/or audio tape of the interview.

Sergeant Moffett was interviewed by IAB investigators on March 20, 2007. He said he was promoted to sergeant in July of 2006 and had worked at Compton Station since that time.

Sergeant Moffett said at approximately 0830 hours, on February 24, 2007, Compton patrol personnel received a call for service of a shooting which occurred at Bullis Road and Elizabeth Street. He said he was aware that the suspects in that shooting were in a dark-colored passenger van. It was also reported that they were gang members (Chicano Gangsters) who were known to frequent the area of Alondra Boulevard and Atlantic Avenue.

At approximately 0940 hours, one of the patrol units requested him to respond to Alondra Boulevard and Willowbrook Avenue with a camera and he started to drive that way. At 0944 hours, a call of another shooting at Alondra and Atlantic came out on [redacted] Because he was in the immediate area, Sergeant Moffett responded to the shooting and made contact with a woman who had been shot in the leg by apparent gang members who were in a dark blue van.



*****IAB Note: Sergeant Moffett said he normally keeps his portable radio on [redacted] and his mobile radio on Compton'[redacted].**

At approximately 0946 hours, Sergeant Moffett made a preliminary crime broadcast on the duplex patch system of [redacted] regarding the woman who had been shot. Air 7 (Deputies Kocisko and Dearborn) were overhead in Compton looking for the dark blue van from the previous shooting, as well as the shooting about which Sergeant Moffett broadcasted.

Sergeant Moffett said he heard Deputy Dearborn say that they had a van driving erratically and appeared to be trying to evade the helicopter. He said, at the time, he believed Deputy Dearborn might be looking at his shooting suspects. He said he looked south of his location (The '[redacted] shop at Atlantic Avenue and Alondra Boulevard) and saw the helicopter flying in circles. Sergeant Moffett said he heard "urgency in her voice" and heard Deputy Dearborn asking for units to respond. He said the Fire Department had arrived and started treating the female shooting victim, but no other patrol units had yet arrived on scene. Sergeant Moffett was aware that units assigned to handle the shooting were responding and made the decision to leave the shooting victim in the hands of the Fire Department while he drove southbound to assist Air 7.

*****IAB Note: When he was asked, Sergeant Moffett said he was aware from the previously broadcasted [redacted] calls that the suspects in the van may have been armed with handguns.**

Sergeant Moffett said as he was responding southbound on Atlantic Avenue to where Air 7 was (south of the 710), he was alerted by Air 7 that approximately four suspects had jumped out of the van. Three of the suspects ran southbound on Atlantic Avenue, one of the suspects ran northbound on Atlantic Avenue, and the van was reportedly driving northbound on Atlantic Avenue . Sergeant Moffett said he was focused on locating the van and, as he drove southbound on Atlantic Avenue (just north of where the 710 freeway crosses it), he heard Deputy Dearborn say something similar to, "Unit, that's one of them." Sergeant Moffett said he saw a male jogging northbound on the east sidewalk of Atlantic Avenue and turned to his left, north of where the suspect was.

*****IAB Note: Sergeant Moffett looked at an aerial photograph and a diagram (Exhibit H) of the location and was able to approximate where he first saw the suspect and where they made contact with one another.**

Sergeant Moffett said when he was alerted to the suspect running up the sidewalk, he saw the suspect and veered his radio car to the left, stopping perpendicular to the east curb, north of the suspect. Sergeant Moffett exited the radio car with his flashlight in his hand (his gun still in his holster). As he did so saw that the suspect lifted up his shirt with his left hand and retrieved a handgun with his right hand. Sergeant Moffett estimated that the suspect was approximately fifteen to twenty feet away from him when he discarded the handgun. The suspect then tossed the gun onto the ground and kicked it toward the chain link fence. Sergeant Moffett said he did not draw his weapon as he saw the suspect do this. Sergeant Moffett also said that due to the speed at which this incident unfolded, he did not have an opportunity to give the suspect any verbal commands or to alert any other units that he had the suspect in his sight.

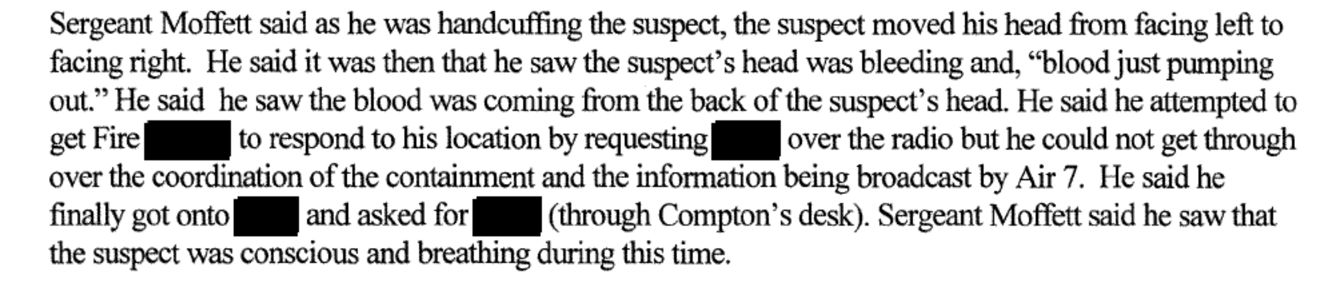
Sergeant Moffett said, when he initially saw the suspect, the suspect appeared to be jogging. He said that as the suspect approached him, the suspect sped up, reached his arms out, and lunged at him. Sergeant Moffett said the suspect hit him full force high on his chest, knocking him off of his feet and backward to the ground. Sergeant Moffett said he felt as if he had been knocked off of his feet and as he was flying backward, he hit the back of his head and felt pain in his left hand. He said he immediately felt dizzy and believed his hand was possibly broken. He saw that the skin on his thumb was torn open, his flesh was hanging out of his thumb and he was bleeding.

Sergeant Moffett said he was dazed. He immediately got to his feet and staggered as he saw that the suspect was north of him on the sidewalk. He got up and took approximately five to seven strides in the suspect's direction. Sergeant Moffett said, because he was injured and disoriented (after being knocked down), he made the decision not to pursue the suspect on foot. Sergeant Moffett said, in his mind, he did not initiate a foot pursuit of the suspect. He also said he did not give the suspect any verbal commands as the suspect was running away. Sergeant Moffett said that when the suspect was approximately 10-15 feet away from him, he (Moffett) threw his flashlight at the suspect with his right hand in an "effort to try to stop this guy or slow him down or disable him." He said he played tennis and threw the flashlight in the same way he would have hit and overhead shot. He said he was aiming at the suspect's back. Sergeant Moffett said he believed the flashlight struck the suspect in the upper back near right shoulder blade. Sergeant Moffett said he never saw the flashlight strike the suspect's head. Sergeant Moffett said the suspect "kind of stumbled and then it looked like he took two more steps and then he kind of went to his -- he fell on his face like a sack. He fell on his face."

*****IAB Note: Sergeant Moffett's Flashlight was examined and found to be a standard black aluminum "Streamlight SL-20X,"(Serial [redacted]). The metal flashlight was photographed (Exhibit F), measured (13 inches from end to end) and weighed (8.5 ounces). Sergeant Moffett's flashlight was operable when it was examined.**

Sergeant Moffett said he ran toward the suspect and closed the distance between them. He said the suspect was lying face-down (with his legs to the west in the adjacent driveway, and his head to the east on the sidewalk) with his arms tucked under his torso. Sergeant Moffett said he knew his hand was injured so he got on the suspect's back and straddled his back. Sergeant Moffett placed his right forearm in his the small of the suspect's back. Sergeant Moffett said he was expecting the suspect to fight but he was not moving. Using his right hand, Sergeant Moffett grabbed the suspect's right arm and pulled it back. He then grabbed the suspect's left arm and yanked it back and held it. Sergeant Moffett said he held the suspect's hands behind the suspect's back while he used his radio on the patch to announce, [redacted], deputy involved in fight," but he said he was "stepped on." He said the helicopter was overhead and he asked the aero unit if they saw him. Sergeant Moffett said he figured the deputies in Air 7 saw him because he heard them say (referring to Sergeant Moffett), "[redacted] with one." Sergeant Moffett said it took him a while to actually handcuff the suspect due to his injured hand. Sergeant Moffett additionally said that the suspect made no attempt to resist his efforts during the handcuffing process.

*****IAB Note: Sergeant Moffett said he did everything with his right hand after his left hand was inured. He said he did not give the suspect any verbal commands during the process of attempting to handcuff him. Sergeant Moffett additionally denied that he or anyone else he saw punched the suspect in the ribs or torso at any time.**



Sergeant Moffett said as he was handcuffing the suspect, the suspect moved his head from facing left to facing right. He said it was then that he saw the suspect's head was bleeding and, "blood just pumping out." He said he saw the blood was coming from the back of the suspect's head. He said he attempted to get Fire [redacted] to respond to his location by requesting [redacted] over the radio but he could not get through over the coordination of the containment and the information being broadcast by Air 7. He said he finally got onto [redacted] and asked for [redacted] (through Compton's desk). Sergeant Moffett said he saw that the suspect was conscious and breathing during this time.

*****IAB Note: Sergeant Moffett said, because he of his head injury, he could not estimate the amount of time it took for the Fire Department to arrive, but felt they arrived to the location quickly.**

Sergeant Moffett said Sergeant Joseph O'Connor was the first unit to arrive to his location. The suspect was already handcuffed at that point. Sergeant Moffett asked Sergeant O'Connor to watch the suspect while he (Moffett) went over and retrieved the handgun discarded by the suspect.

*****IAB Note: Sergeant Moffett marked the diagram (Exhibit H) where he estimated the location from where he retrieved the suspect's handgun.**

When Sergeant Moffett returned to the location of the incident with the suspect's revolver, he placed it on the ground (where it was later recovered as evidence by Deputy Rafer Owens). Sergeant O'Connor then left Sergeant Moffett alone with the handcuffed suspect at that location to assist Air 7 in attempting to locate the suspects' van which was seen in the mobile home park to the north. Sergeant Moffett said several units (including Deputies [redacted]) arrived at his location within moments of the Fire Department's arrival.

When Sergeant Moffett was asked what caused him to choose to engage the suspect at the time he did instead of waiting for other units or broadcasting information about the suspect, he said he acted on instinct: "I was acting on instinct. As soon as I heard, 'Unit, that's him.' My instinct was to turn towards it. I didn't realize that the scenario was gonna change as drastically as it did that fast and evolve that quickly." Sergeant Moffett acknowledged that maintaining distance can be tactically advantageous but he felt that when he turned his radio car to the curb and exited the vehicle he did not have a choice but to attempt to detain the suspect. He said his intention, at that point, was to get out of the vehicle and get in the suspect's way. He said he did not have an opportunity to either draw his weapon or consider the use of less lethal force options before the suspect knocked him to the ground. He estimated that the suspect knocked him to the ground approximately 2-5 seconds after he exited his radio car.

*****IAB Note: Sergeant Moffett said that he carries his expandable baton, OC spray, extra magazines, his gun, two handcuff cases, a Leatherman tool, and a knife on his gun belt. He said he had all of those items on his gun belt on the day of occurrence. He also said he had a Taser available in his radio car.**

Sergeant Moffett said he was aware that the suspect was running back into the original [redacted] crime scene and he felt the need to stop the suspect from doing so. Sergeant Moffett also believed that, based on what he believed to be the suspect's involvement in the shooting at the Bullis Road apartments, the shooting of the female motorist (at Alondra Boulevard and Atlantic Avenue), the suspect was a danger to the public and needed to be stopped. He said that these factors influenced his decision to throw his flashlight at the suspect.

*****IAB Note: Sergeant Moffett's vehicle was moved from its original location prior to the arrival of investigators due to the pending arrival of the Air 5 helicopter and the possibility of it landing closer to the incident.**

<u>SUSPECT INFORMATION:</u>

NAJERA, Jose Angel, (aka: Robert Majera), MH/31, DOB:09-05-1975, 508, 165. Arrested at the scene of the incident, in custody for Shooting at an Inhabited Dwelling (246 PC).

Booking # 9422556 C.I.I.[redacted] Main #[redacted] FBI #[redacted] CDC[redacted]

[redacted]

<u>SUSPECT'S STATEMENTS</u>

Suspect Najera was interviewed on February 26, 2007, by OSS Detective Paul Merino[redacted]) at Harbor General Hospital. Suspect Najera waived his Miranda rights and agreed to speak to Detective Merino. Suspect Najera told Detective Merino he remembered exiting the van and running, but did not remember anything after getting out of the van, other than waking up in the hospital.

The supplemental report regarding this interview, written by Detective Merino, is presented within **Exhibit A**.

*****IAB Note: Additional supplemental reports, URN # 407-03264-2851-051 are presented as Exhibit C. Booking information for both Suspect Najera and Hugo Padilla are presented as Exhibit E.**

<u>EMPLOYEE WITNESSES:</u>

The following are summaries of the witness interviews conducted by IAB investigators. Additional information and the precise wording of their statements may be obtained by reviewing the recorded interviews.

<u>KOCISKO, Todd, [redacted]</u>

Office of Homeland Security - Aero Bureau

Deputy Todd Kocisko was interviewed by IAB investigators on April 5, 2007. He was the pilot of Air 7 at the time of the force incident. He said he and his partner (Deputy Karen Dearborn) were patrolling Compton's area for a dark van which was reported to have been involved in an earlier shooting incident. They observed a dark colored van engaged in suspicious activity (later determined to be a shooting) at the corner of Alondra Boulevard and Atlantic Avenue. They followed the van as it traversed through residential neighborhoods and eventually drove onto Atlantic Avenue. It was at this time (0946 hours, on [redacted]) that Deputy Dearborn requested Compton units to respond to the location of the van.

Deputy Kocisko said he and Deputy Dearborn saw the van stop on Atlantic Avenue, just north of where the 710 Freeway crosses over it. Several occupants exited the van. He said at least three males ran southbound and one male ran northbound. The driver of the van then drove the van northbound on Atlantic Avenue. As this was happening, Sergeant Moffett was responding southbound at Deputy Dearborn's request. She directed him to the male suspect (dressed in black) who was jogging northbound on the east sidewalk of Atlantic Avenue.

*****IAB Note: Deputy Kocisko said that, as the helicopter pilot, he sits on the right side of the helicopter and they orbit to the left. He estimated their altitude at that time to be 300-500 feet. He said he and Deputy Dearborn are able to see most objects (people, cars, etc., but not very small objects) without the aide of binoculars from that altitude. Deputy Kocisko said he never saw the suspect holding a gun, nor did he see him discard one.**

Deputy Kocisko said the helicopter was to the south of the suspect and he saw Sergeant Moffett's radio car pull to the east curb of Atlantic Avenue just north of the suspect. Deputy Kocisko said he saw Sergeant Moffett exit his radio car and run directly (at an angle) toward the suspect in an apparent attempt to cut the suspect off. He said it appeared to him that the suspect sped up and ran toward Sergeant Moffett, causing him (the suspect) and Sergeant Moffett to collide. Sergeant Moffett fell backward onto the ground, and the suspect appeared to temporarily lose his balance but managed to continue running northbound. Deputy Kocisko noted that the suspect's hands were in front of him as if he was holding something but he did not actually see any object in the suspect's hands. Sergeant Moffett regained his balance and got back to his feet. Deputy Kocisko said Sergeant Moffett took several steps (he estimated less than a dozen) in the suspect's direction and then threw an object at the suspect in an overhand motion. Deputy Kocisko said it looked to him that the suspect immediately collapsed and fell face-down . Deputy Kocisko estimated that Sergeant Moffett was approximately 15 feet away from the suspect when he threw the item(flashlight). He said that the suspect was down on the ground and Sergeant Moffett ran up to the suspect and appeared to take him into custody.

Deputy Kocisko said, because they had essentially three concurrent containments (the three men running southbound, the van driving into the mobile home park to the north, and Sergeant Moffett's incident), and it appeared that Sergeant Moffett's incident was [redacted] he made the decision to widen the helicopter's orbit and raise the altitude at that time (so that he and Deputy Dearborn could attempt to see more of the events occurring on the ground.). Deputy Kocisko said he did not see Sergeant Moffett or any other Department personnel strike the suspect. He estimated that a second unit arrived to Sergeant Moffett's location approximately 30 seconds after the suspect was taken into custody.

Deputy Kocisko said he initially requested Air 5 to respond to Sergeant Moffett's location when it was announced on the radio that there was a "deputy down." Once it was determined that the deputy (Sergeant Moffett) was not badly injured, Air 5 (pilot Mike Granek [redacted]) continued their response for the injured suspect (Suspect Najera).

Deputy Kocsiko additionally wrote a supplemental report regarding what he observed. The supplemental report, written by Deputy Kocisko, is presented within **Exhibit B**.

DEARBORN, Karen, Deputy [redacted]
Office of Homeland Security - Aero Bureau

Deputy Karen Dearborn was interviewed by IAB investigators on April 5, 2007. She said she was the observer deputy in Air 7 at the time of the force incident. Deputy Dearborn said she and her partner (helicopter pilot Deputy Todd Kocisko) were checking Compton for a dark blue van that had been involved in a shooting about an hour beforehand. They saw a dark colored van drive southbound on Atlantic Avenue and stop at the corner of Alondra Boulevard. Deputy Dearborn said she saw the right front passenger lean out the passenger window and point his hand out the window. She said she retrieved her binoculars and got a good look at his face.

*****IAB Note: Deputy Dearborn did not see the man (who was later identified as Suspect Najera) holding a gun.**

Deputy Dearborn and her partner continued to watch the van as it appeared to drive "aimlessly" throughout the residential street southwest of Alondra Boulevard and Atlantic Avenue. Deputy Dearborn said the van then drove southbound Atlantic Avenue to Sportsman Drive (a dead-end street) and then turn around and drive back northbound on Atlantic Avenue. She had been communicating with the Compton ground units on Compton's [redacted] about the previous shooting at Bullis Road and Elizabeth Street. She asked for units to respond to the van's location believing its occupants were acting suspiciously. When Deputy Dearborn heard the [redacted] broadcast of the shooting which occurred at Alondra Boulevard and Atlantic Avenue, she formed the opinion that the van they were watching may have been involved in the shooting and the man she saw leaning out the window may have been the shooter. As Deputy Dearborn was requesting Compton units to respond to Atlantic Avenue, just north of where the 710 Freeway crosses it, she saw the passenger doors open and the van's occupants start to flee. She said at least three males ran southbound under the freeway overpass, one male (Najera) walked northbound on the east sidewalk of Atlantic Avenue, and the driver of the van drove northbound toward the mobile home park north of them.

Deputy Dearborn said, because the containment was rapidly widening, she and Deputy Kocisko made the decision to continue watching the van and the Suspect Najera (believing he may have been the shooter). She watched the van while Deputy Kocisko watched Suspect Najera. Deputy Dearborn said she saw a radio car driving southbound on Atlantic Avenue and she directed the deputy (Sergeant Moffett) to stop Suspect Najera. She said she saw Sergeant Moffett turn eastbound and stop parallel to the east curb just north of where Suspect Najera was. She then saw Sergeant Moffett exit his radio car and run toward Suspect Najera. She said she attempted to watch Suspect Najera to see if he was armed but did not see him holding anything. Because the helicopter was orbiting and she was attempting to watch where the van was going, she asked Deputy Kocisko to watch Sergeant Moffett and Suspect Najera. She said she did not witness it, but Deputy Kocisko told her that the deputy was involved in a fight and then that they had a "deputy down." She relayed this information to the ground units via [redacted] and the patch [redacted]

*****IAB Note: Deputy Dearborn said there was "feedback" on the radio and she did not hear a response. She tried to put the information out on both frequencies but believed, with the multiple locations and deputies responding, they were "stepping on " each other. She said, at one point, SCC attempted to join**

[redacted] **so that all units were on the same frequency. She believed that a unit broadcast "[redacted] traffic but was not sure due to units talking on the radio simultaneously.**

Deputy Dearborn said when she looked over to where Sergeant Moffett was, she saw him over Suspect Najera, who was on the ground. She was not sure whether the suspect was handcuffed at that time but it appeared that Sergeant Moffett had the incident under control. Deputy Dearborn advised the units that Sergeant Moffett was "[redacted] with one."

When Deputy Dearborn was asked, she said she did not see the collision between Suspect Najera and Sergeant Moffett. She did not see Sergeant Moffett knocked to the ground, nor did she see Sergeant Moffett throw any object at Suspect Najera or handcuff him.

Deputy Dearborn additionally wrote a supplemental report regarding what he observed. The supplemental report, written by Deputy Dearborn, is presented within **Exhibit B**.

NON-DEPARTMENT WITNESSES:

The following are summaries of the witness interviews conducted by IAB investigators. Additional information and the precise wording of their statements may be obtained by reviewing the recorded interviews.

[redacted]**, Female/Hispanic, DOB:** [redacted]

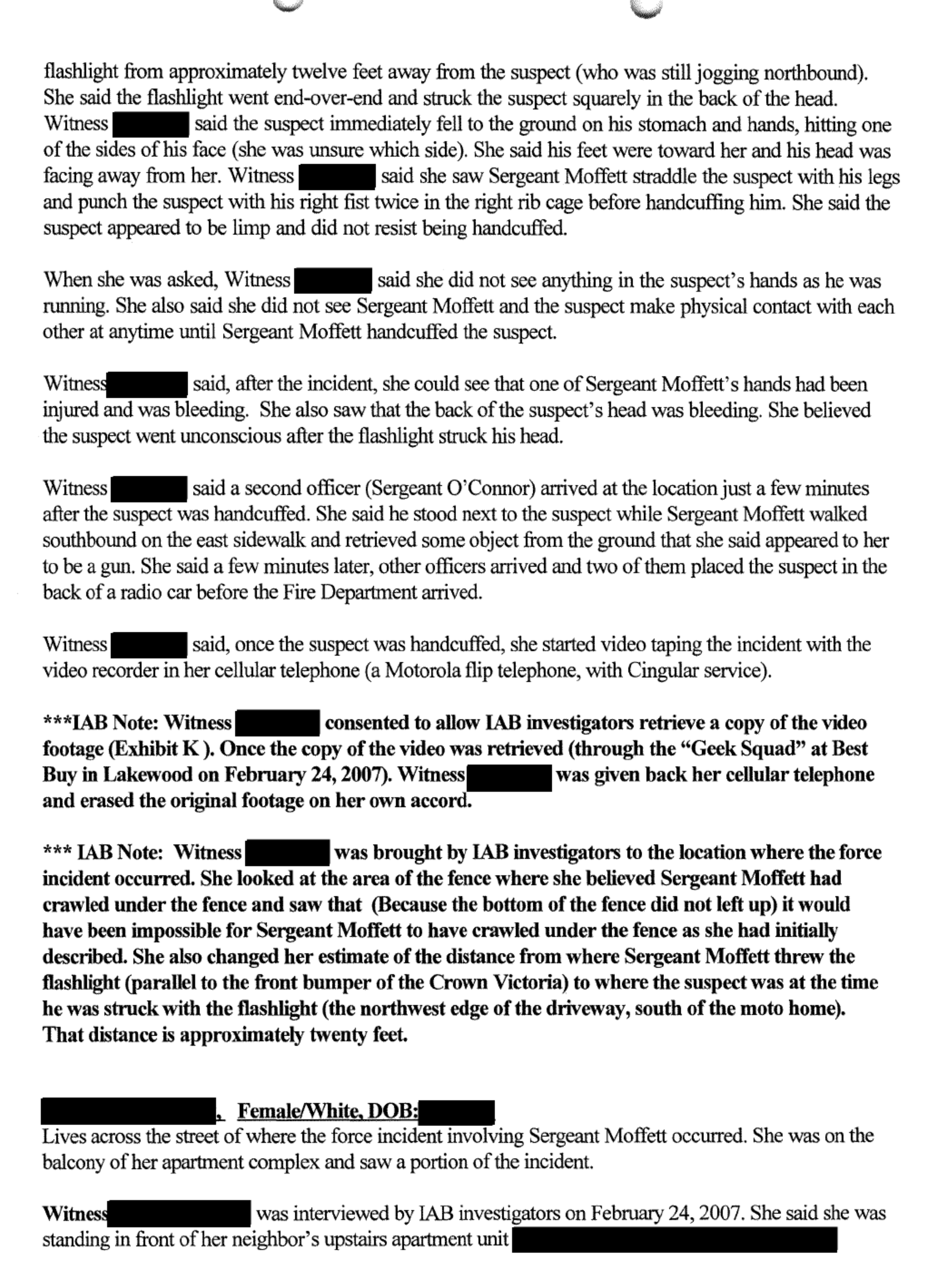
Lives across the street from where the force incident involving Sergeant Moffett occurred. She was on the balcony of her apartment complex and had a view of the incident.

Witness [redacted] was interviewed by IAB investigators on February 24, 2007. She said she was standing in front of her upstairs apartment unit ([redacted]) across the street (to the west, approximately 120 feet away) of where the force incident occurred. She was facing Atlantic Avenue speaking to her neighbor, [redacted], who was facing away from Atlantic Avenue. Witness [redacted] said that her attention was drawn to a dark van which was stopped in the street facing northbound with what appeared to be smoke coming from it. Witness [redacted] said she told Witness [redacted] to look out toward Atlantic Avenue at what she was seeing but, because Witness [redacted] (5'06", 400 lbs) and was facing away from the street, it took her a few seconds to get to the rail of the balcony.

*****IAB Note: Witness [redacted] said Witness [redacted] did not arrive to the balcony rail until after the suspect was already handcuffed by Sergeant Moffett.**

Witness [redacted] said she saw a male Hispanic (wearing a black sweater, black Dickies shorts, black shoes, white socks) exit the van and start jogging northbound on the east sidewalk of Atlantic Avenue. Witness [redacted] said it appeared to her that the man (Suspect Najera) was limping and that one of his legs might have been injured.

Witness [redacted] said the suspect ran past the black car (a Ford Crown Victoria, painted black, with a white top, CA Lic [redacted]) and then the deputy (Sergeant Moffett) climbed under the chain link fence and threw his flashlight at the suspect. Witness [redacted] estimated that Sergeant Moffett threw the



flashlight from approximately twelve feet away from the suspect (who was still jogging northbound). She said the flashlight went end-over-end and struck the suspect squarely in the back of the head. Witness [redacted] said the suspect immediately fell to the ground on his stomach and hands, hitting one of the sides of his face (she was unsure which side). She said his feet were toward her and his head was facing away from her. Witness [redacted] said she saw Sergeant Moffett straddle the suspect with his legs and punch the suspect with his right fist twice in the right rib cage before handcuffing him. She said the suspect appeared to be limp and did not resist being handcuffed.

When she was asked, Witness [redacted] said she did not see anything in the suspect's hands as he was running. She also said she did not see Sergeant Moffett and the suspect make physical contact with each other at anytime until Sergeant Moffett handcuffed the suspect.

Witness [redacted] said, after the incident, she could see that one of Sergeant Moffett's hands had been injured and was bleeding. She also saw that the back of the suspect's head was bleeding. She believed the suspect went unconscious after the flashlight struck his head.

Witness [redacted] said a second officer (Sergeant O'Connor) arrived at the location just a few minutes after the suspect was handcuffed. She said he stood next to the suspect while Sergeant Moffett walked southbound on the east sidewalk and retrieved some object from the ground that she said appeared to her to be a gun. She said a few minutes later, other officers arrived and two of them placed the suspect in the back of a radio car before the Fire Department arrived.

Witness [redacted] said, once the suspect was handcuffed, she started video taping the incident with the video recorder in her cellular telephone (a Motorola flip telephone, with Cingular service).

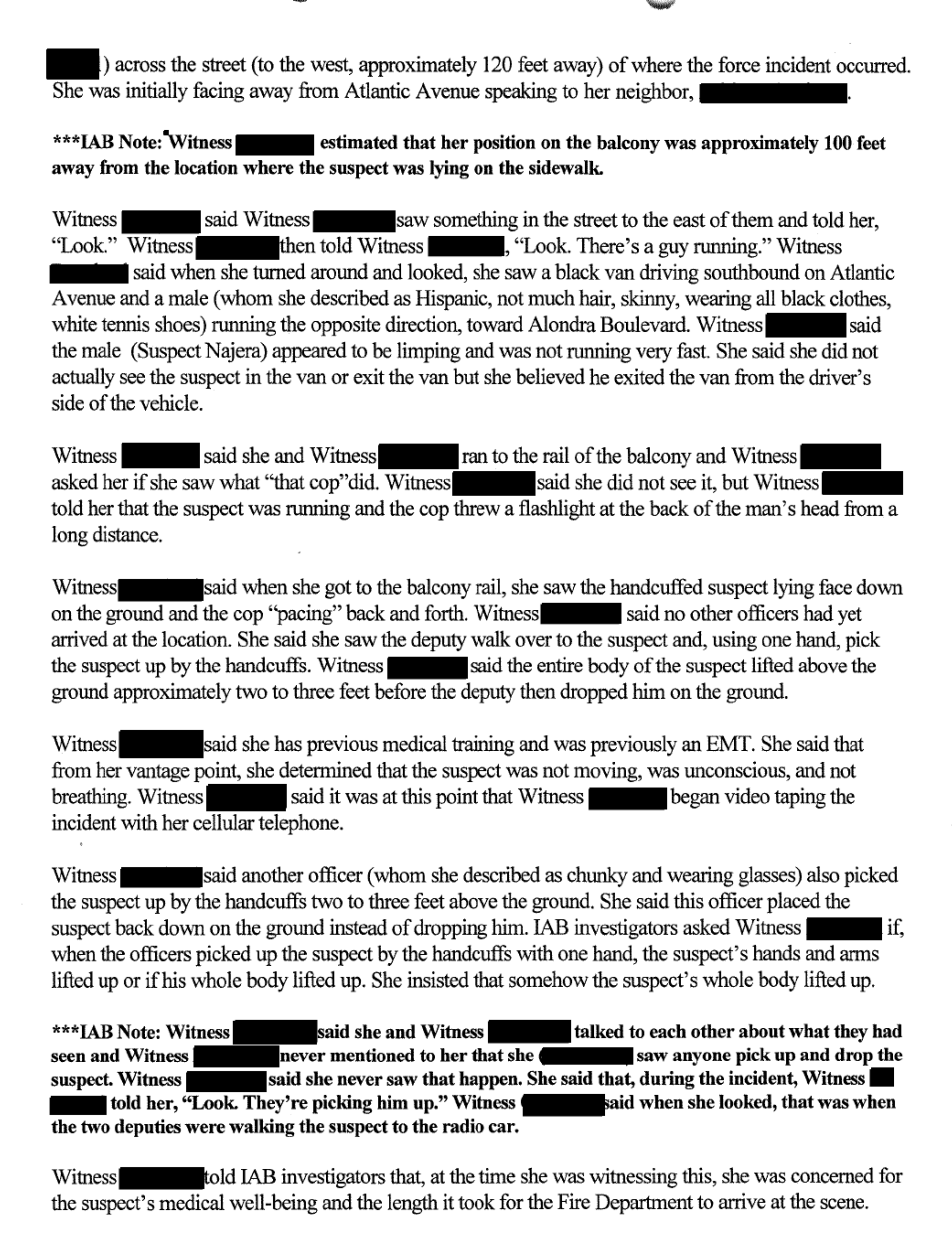
*****IAB Note: Witness [redacted] consented to allow IAB investigators retrieve a copy of the video footage (Exhibit K). Once the copy of the video was retrieved (through the "Geek Squad" at Best Buy in Lakewood on February 24, 2007). Witness [redacted] was given back her cellular telephone and erased the original footage on her own accord.**

***** IAB Note: Witness [redacted] was brought by IAB investigators to the location where the force incident occurred. She looked at the area of the fence where she believed Sergeant Moffett had crawled under the fence and saw that (Because the bottom of the fence did not left up) it would have been impossible for Sergeant Moffett to have crawled under the fence as she had initially described. She also changed her estimate of the distance from where Sergeant Moffett threw the flashlight (parallel to the front bumper of the Crown Victoria) to where the suspect was at the time he was struck with the flashlight (the northwest edge of the driveway, south of the moto home). That distance is approximately twenty feet.**

[redacted], Female/White, DOB: [redacted]

Lives across the street of where the force incident involving Sergeant Moffett occurred. She was on the balcony of her apartment complex and saw a portion of the incident.

Witness [redacted] was interviewed by IAB investigators on February 24, 2007. She said she was standing in front of her neighbor's upstairs apartment unit [redacted]



[redacted]) across the street (to the west, approximately 120 feet away) of where the force incident occurred. She was initially facing away from Atlantic Avenue speaking to her neighbor, [redacted].

*****IAB Note: Witness [redacted] estimated that her position on the balcony was approximately 100 feet away from the location where the suspect was lying on the sidewalk.**

Witness [redacted] said Witness [redacted] saw something in the street to the east of them and told her, "Look." Witness [redacted] then told Witness [redacted], "Look. There's a guy running." Witness [redacted] said when she turned around and looked, she saw a black van driving southbound on Atlantic Avenue and a male (whom she described as Hispanic, not much hair, skinny, wearing all black clothes, white tennis shoes) running the opposite direction, toward Alondra Boulevard. Witness [redacted] said the male (Suspect Najera) appeared to be limping and was not running very fast. She said she did not actually see the suspect in the van or exit the van but she believed he exited the van from the driver's side of the vehicle.

Witness [redacted] said she and Witness [redacted] ran to the rail of the balcony and Witness [redacted] asked her if she saw what "that cop"did. Witness [redacted] said she did not see it, but Witness [redacted] told her that the suspect was running and the cop threw a flashlight at the back of the man's head from a long distance.

Witness [redacted] said when she got to the balcony rail, she saw the handcuffed suspect lying face down on the ground and the cop "pacing" back and forth. Witness [redacted] said no other officers had yet arrived at the location. She said she saw the deputy walk over to the suspect and, using one hand, pick the suspect up by the handcuffs. Witness [redacted] said the entire body of the suspect lifted above the ground approximately two to three feet before the deputy then dropped him on the ground.

Witness [redacted] said she has previous medical training and was previously an EMT. She said that from her vantage point, she determined that the suspect was not moving, was unconscious, and not breathing. Witness [redacted] said it was at this point that Witness [redacted] began video taping the incident with her cellular telephone.

Witness [redacted] said another officer (whom she described as chunky and wearing glasses) also picked the suspect up by the handcuffs two to three feet above the ground. She said this officer placed the suspect back down on the ground instead of dropping him. IAB investigators asked Witness [redacted] if, when the officers picked up the suspect by the handcuffs with one hand, the suspect's hands and arms lifted up or if his whole body lifted up. She insisted that somehow the suspect's whole body lifted up.

*****IAB Note: Witness [redacted] said she and Witness [redacted] talked to each other about what they had seen and Witness [redacted] never mentioned to her that she ([redacted] saw anyone pick up and drop the suspect. Witness [redacted] said she never saw that happen. She said that, during the incident, Witness [redacted] told her, "Look. They're picking him up." Witness ([redacted] said when she looked, that was when the two deputies were walking the suspect to the radio car.**

Witness [redacted] told IAB investigators that, at the time she was witnessing this, she was concerned for the suspect's medical well-being and the length it took for the Fire Department to arrive at the scene.

She additionally expressed her opinion that the Paramedics and Sheriff's personnel intentionally attempted to block their actions from her and Witness [redacted]' view.

When Witness [redacted] was asked, she said that she did not see the suspect in possession of a gun. She did not see the suspect and the officer (Sergeant Moffett) make contact with each other on the sidewalk. She also did not see the Sergeant Moffett throw his flashlight at the suspect. She said she never saw Sergeant Moffett's radio car and assumed he was driving the black and white Crown Victoria parked near the location as an "unmarked" car. Witness [redacted] did say that she saw blood on Sergeant Moffett's left hand and blood on the back of the suspect's head.

INJURIES:

Suspect Najera was transported via Air 5 to Harbor/UCLA General Hospital, where he was initially treated by Dr. Newell and admitted into the hospital (patient #[redacted]). According to Emergency Room Physician, Dr. Bryan Ngo, Suspect Najera was initially listed as serious to critical condition, had a laceration to the back of his scalp, head trauma, and a hematoma and abrasions on his right cheek. Dr. Ngo said he was not aware of any other injuries sustained by Suspect Najera.

Dr. Ngo was advised about the use of force reported by Sergeant Moffett and confirmed that Suspect Najera's injuries were consistent with being struck in the back of the head by a flashlight and falling forward onto the concrete. Suspect Najera was photographed while in the hospital **(Exhibit I).**

*****IAB Note: Through Detective John Duncan, it was learned that Suspect Najera had been a [redacted] in Long Beach prior to the force incident with Sergeant Moffett. Long Beach Police Department Detective [redacted] provided a letter detailing the nature of the [redacted] and the injuries sustained by Suspect Najera, as well as photographs of him, prior to his contact with Sergeant Moffett (presented as Exhibit J).**

Sergeant Moffett was transported via radio car to Long Beach Memorial Hospital (patient #[redacted]) and treated by Dr. Sebastian for a 1" avulsion to his left thumb and a concussion due to falling backward and striking his head. Sergeant Moffett's injuries were photographed **(Exhibit L**).

PHYSICAL EVIDENCE:

All physical evidence pertaining to this investigation was recovered at the scene by Crime Lab Deputy Michael E. Robinson, #[redacted] **(Exhibit F)**. Deputy Robinson additionally photographed the multiple crime scenes. Other items of evidence were documented by Deputy Robinson for the purposes of the criminal investigation.

The evidence in this force incident included:

EV #12 - Revolver, "Smith & Wesson" .38 caliber, blue steel 5-shot revolver with four live cartridges and one expended cartridge.

EV #A - J - Blood drops observed along the east sidewalk of Atlantic Avenue, north of the 710 Freeway (photographed and measured).

[redacted]

INVESTIGATOR'S OBSERVATIONS

All evidence observed at the scene of the incident appeared to be consistent with the information provided by involved personnel and employee witnesses.

CRIMINAL INVESTIGATION CHARGES:

Investigator's Name	Detective John Duncan, [redacted] (OSS - Compton)
Court	Compton Court
Charges Filed	245(c) PC (Assault Upon a Police Officer with Great Bodily Injury), 69 PC (Resisting an Executive Officer), and 12021(a)(1) PC (Possession of a Firearm by a Felon).
Case Number	TA089438

Charges filed by the Los Angeles County District Attorney's Office against Suspect Najera are documented within **Exhibit G**.

761551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: June 28, 2007

OFFICE CORRESPONDENCE

FILE NO. FO2190529

FROM: JOHNNY G. JURADO, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**
SERGEANT MARK G. MOFFETT #[redacted]
COMPTON STATION

Compton Station personnel responded to a shots fired call earlier in the day. Approximately one hour later another shooting occurred and Sergeant Mark Moffett (280S/Days) responded to the shooting scene and contacted the victim who had been shot in the leg. He put out a [redacted] broadcast of the suspect's vehicle description and seconds later Air 7 located the vehicle. Sergeant Moffett responded to the area and Air 7 indicated numerous suspects exited the vehicle and were running away from it. Three suspects ran southbound, while one suspect (later identified as Jose Najera) ran toward Sergeant Moffett.

Air 7 directed Sergeant Moffett toward Suspect Najera. Sergeant Moffett exited his vehicle to attempt to detain Suspect Najera. As Suspect Najera ran toward Sergeant Moffett, he retrieved a handgun from his waistband and tossed it to the ground. Suspect Najera continued to run toward Sergeant Moffett, then struck him with his body, knocking Sergeant Moffett backwards into a nearby fence. As Suspect Najera continued to run away, Sergeant Moffett, dazed by hitting his head when he fell, threw his flashlight at Suspect Najera from approximately fifteen to twenty feet away to stop him from running away. The flashlight struck Suspect Najera in the back of the head, immediately knocking him to the ground.

Sergeant Moffett handcuffed and detained Suspect Najera and recovered the gun without further incident.

Sergeant Moffett was transported via radio car to Long Beach Memorial Hospital and treated for a 1" avulsion to his left thumb and a concussion.

Suspect Najera was transported via Air 5 to Harbor/UCLA General Hospital, where he was treated and admitted. Suspect Najera was initially listed as serious to critical condition. He had a laceration to the back of his scalp, head trauma, and a hematoma and abrasions on his right cheek. The doctor confirmed that Suspect Najera's injuries were consistent with being struck in the back of the head by a

flashlight and falling forward onto the concrete.

On June 28, 2007, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MMP §§ 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MMP § 3-01/025.00, Use of Force, MMP § 3-01/025.30, Use of Firearms and Deadly Force, and MMP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Sergeant Moffett was reasonable and necessary and in compliance with Department policy.

MMP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by Sergeant Moffett in this incident were within Department Policy.

Johnny G. Jurado, Commander

JGJ:MOT:mt